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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 001597

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KDEM](#) [TH](#)  
SUBJECT: CONSTITUTION: DEBATE HEATS UP

REF: A. BANGKOK 1465  
[1](#)B. 06 BANGKOK 1867

Classified By: Political Counselor Susan M. Sutton, reason 1.4 (b) and (d).

[1](#)1. (C) SUMMARY: According to many contacts, there is a real danger that the constitution will not pass the required referendum, but a good draft still has a pretty good chance of success. This week, debate focused on a possible provision to allow a "non-elected PM," an idea which seems to be popular with the coup makers but deeply unpopular with the population. One constitution drafter told us this week that final version of the new charter would be "democratic" and was unlikely to contain provision for an unelected PM. There will also likely be an appointed Senate. However, we will not know for sure how the debate on these issues will be resolved until the drafting process is complete. Despite fears that former Thai Rak Thai MPs will campaign against the constitution, we saw no sign of such activity in a recent visit to the party's northeastern base. In fact, the MPs (and other locals) saw the referendum as unimportant -- the main thing is to have elections, so the people can vote for them. End summary.

[1](#)2. (C) One of the hottest issues for the constitution drafters is whether to permit the parliament to select a prime minister who has not first been elected to the parliament. The "non-elected PM" option provoked heated debate again starting last week, when the Constitution Drafting Committee (CDC) went on retreat to thrash out some of the contentious issues in the new charter. Prasong Sunsiri, the chair of the 35-member Constitution Drafting Committee (CDC), publicly pressed for the CDC to opt for language permitting the parliament to elect a prime minister who is not an elected member of parliament. (Septel reports on Prasong's views on the constitution.) Prasong, and some supporters of this provision among the drafters, argued that the country needed a way to escape from political crises like the one that occurred last year, when many activists and politicians called for the King to intervene and name an interim prime minister. (See background on the "Article 7" issue, ref B). Other drafters argued strongly against the proposal, and most of the press also came out in strident opposition. Coup council chair GEN Sonthi denied reports that

he was pressing for this provision, but some other military officers, including GEN Winai (Council for National Security Secretary-General), spoke out in favor.

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13. (C) Polcouns met March 14 with Somkid Lertpaithoon, public law expert at a major Thai university and Secretary-General of the drafting committee, to discuss the views of the drafters. Somkid said that he, personally, thought it might be a good idea to leave the option open for a non-MP to become prime minister, in case of a political crisis. However, he did not believe that this option would be acceptable to the public, which has to approve the constitution in a referendum. Therefore, when the time comes to vote on the "unelected PM" proposal, he said, he would vote against it. Within the CDC, he thought that the drafters were probably split down the middle in their personal beliefs on this question, but he was fairly sure that it would not be included in the final draft, since it was generally believed that this would lead to the failure of the constitution to pass the referendum. Somkid expressed confidence that the final version of the constitution would be 'democratic.' Like many interlocutors, he also believed that "if the draft constitution is good, it will pass the referendum."

14. (C) Polcouns noted that many of our civil society and politician contacts agreed that the non-elected PM provision would lead to the failure of the referendum, and could even provoke public protests. Despite protestations that the provision would be used only in a crisis, many people saw it as a way for one of the current junta leaders to retain power after the elections. CNS Chair GEN Sonthi has repeatedly denied that he would ever be prime minister, and many people

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appear to believe him. However, there is more concern about other members of the CNS. Somkid agreed, and mentioned GEN Winai as someone widely believed to have political aspirations.

15. (C) Somkid also discussed the latest proposals on the Senate. He said that the drafting subcommittee would likely propose an appointed Senate. One senator would be selected to represent each of the 76 provinces, and another approximately 80 would be chosen by professional groups. Somkid joked that they "don't want everything in the hands of the politicians," and therefore want to keep a non-partisan upper house. While he thought that the CDC would approve this proposal, he also conceded that it might be changed as the draft goes through the review and amendment process, as there was still some support for an elected senate. (Note: Septel reports that Prasong outlined a different process for choosing the senators, further evidence these provisions are still under discussion and by no means settled. End note.)

HOW DOES THIS WORK?

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16. (C) According to press reports, the CDC subcommittee drafting these provisions agreed again late this week that the constitution would call for the PM to be an elected MP. However, this issue, like the senate selection procedures, will probably not be laid to rest until the draft makes it all the way through the drafting and review process. From the CDC, the draft has to be submitted to a range of government agencies, the high courts and universities for review; their views and public reactions have to be considered before the draft is revised by the CDC and sent to the 100-member Constitution Drafting Assembly (CDA). This larger Assembly can also propose amendments before approving the final version. Controversial ideas, like the unelected PM, could continue to surface throughout this process, even if their chances for final adoption appear slim.

17. (C) We have spoken to a variety of contacts about the prospects for the referendum. In Bangkok, some have expressed concern that elements loyal to former PM Thaksin will organize opposition to the constitution, casting it as a referendum on the coup and the current government, and therefore likely to fail. During a recent visit to the Northeast, stronghold of Thaksin's Thai Rak Thai (TRT) party, we saw no sign that former TRT MPs were organizing against the new charter -- nor, in fact, did they display much interest in what was in it. One Khon Kaen MP we met repeated the commonly-held view that people don't understand the constitution and aren't interested. "I'm an MP and I don't even understand it." In his view, the people just wanted the referendum to be over, because they wanted to have elections. "They want to vote for me again." Another TRT MP echoed that view: the people need their MPs because that's who they turn to for help. The local members of the Election Commission also agreed the population was not very interested in the constitution, but wanted to have elections and get their MPs back. They anticipated that, for this reason at least, the constitution would likely pass. The TRT MPs also emphasized that the opinions of former MPs like themselves would have a great influence on the public's view of the constitution and their vote in the referendum. (A point made by senior Democrat Chuan as well - ref A).

18. (C) The MPs were keenly interested, however, in the various proposals to change the system for electing MPs. They favored maintaining the single member districts specified in the 1997 Constitution, rather than returning to the previous system of multi-member districts. (The constitution drafters and other experts hope that larger districts will make vote-buying harder.) The Khon Kaen MP complained that he has a very close connection to his constituency now, but this would be much harder for him to maintain if he were one of three MPs covering a larger

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district. In the past, he might go to a dozen weddings in a day, meeting with voters; this kind of contact would be much harder in a larger district. (One local academic told us that one important duty of an MP is to "go to every wedding, and pay for a band, and a tent with your name on it." He called this "buying votes on the installment plan." He also agreed that the MP is seen as a "fixer," the one you turn to for "help with whatever problem you have in your life.")

COMMENT  
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19. (C) Like Rasputin, the "unelected PM" idea is going to be hard to kill. The coup leaders and their allies have an inherent distrust for the messy business of elected democracy. They are inclined to see all politicians as self-serving and corrupt, and want to preserve some option to wrest political control from their grubby hands, at least in times of crisis. At this point, it seems likely that the "unelected PM" provision would sink the new constitution, regardless of whatever other virtues it had; in addition, it could well provoke public protest. The opponents of this provision within the CDC and CDA, and society at large, therefore have a strong practical argument to bring against it, in addition to their ideological ones.

110. (C) We are encouraged that TRT MPs in the northeast are not organizing against the constitution (at least, not yet.) If they are guided by their short-term self-interest (which seems likely), they should support a successful referendum followed quickly by elections, which they would likely win. This could change, however, if the government/CNS takes steps that could block them from running for office.  
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